

THE STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION



Victoria F. Sheehan Commissioner

William Cass, P.E. Assistant Commissioner

Bureau of Rail & Transit December 3, 2018

His Excellency, Governor Christopher T. Sununu and the Honorable Council State House Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Transportation to enter into a sole source contract amendment with Boston Express Bus, Inc., (Vendor # 166250), Concord, NH, to increase the contract amount by \$69,180.00 from \$2,466,727.00 to \$2,535,907.00, effective upon Governor and Council approval and to extend the completion date from December 31, 2018 to December 31, 2023. The original agreement was approved by Governor and Council on January 10, 2007 (Item 123A) and amended November 17, 2010 (Item 215), November 6, 2013 (Item 119), and June 18, 2014 (Item 185). 100% Federal funds.

Funding for this amendment is available as follows for FY 2019, and is contingent upon the availability and continued appropriation of funds in FY 2020 through FY 2024, with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified.

Table with 4 columns: Description, FY 2019, FY 2020, FY 2021. Rows include State Bus Services & Facilities, Equipment - General (Replace), Equipment - Computer Hardware, Contract Repairs - Bldgs/Grounds, and Contracts for Operational Services.

Table with 4 columns: Description, FY 2022, FY 2023, FY 2024. Rows include State Bus Services & Facilities, Equipment - General (Replace), Equipment - Computer Hardware, Contract Repairs - Bldgs./Grounds, and Contracts for Operational Services.

EXPLANATION

Boston Express Bus, Inc. provides daily commuter bus service along the FE Everett Turnpike between Manchester-Nashua-Tyngsborough-Boston, consisting of at least nine round trips per weekday between the hours of 6:00 am and 9:00 pm. This sole source contract amendment will maintain the current level of service without interruption while adequately addressing escalating operational and maintenance

expenses. This amendment provides an additional \$69,180.00 of Federal Transit Administration (FTA) funds to assist with net operating expenses, capital facility repairs, maintenance and terminal capital equipment, and park and ride facility maintenance through December 31, 2023. Federal funds will be matched with approved Toll Credits, effectively using 100% Federal funds. The use of Toll Credits for this project was approved by the Capital Budget Overview Committee on November 29, 2018 (approval letter attached).

The Department entered into a contract agreement with Boston Express Bus, Inc. in 2007 to initiate commuter bus service along the FE Everett Turnpike to Boston, using State and FTA funds to defray operating, preventative maintenance, capital, and marketing expenses. The total revised contract amount, including previous amendments, is \$2,535,907.00. The additional funding will allow Boston Express Bus to maintain existing service levels through December 31, 2023. This commuter bus service is well utilized and is a tremendous asset to the State and greatly appreciated by commuters and travelers. Ridership has grown from under 8,000 per month when first initiated to over 20,000 per month currently.

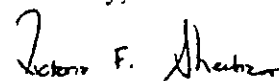
All other provisions of the agreement shall remain in effect.

In the event that Federal Funds become unavailable, General Funds will not be requested in support of this project.

The Amendment has been approved by the Attorney General as to form and execution and the Department will verify the necessary funds are available for the contract period pending enactment of the Fiscal Year 2020 through 2024 budgets. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,



Victoria F. Sheehan
Commissioner

Attachments



CAP 18-025

MICHAEL W. KANE, MPA
Legislative Budget Assistant
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CHRISTOPHER M. SHEA, MPA
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(803) 271-3161

State of New Hampshire

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
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STEPHEN C. SMITH, CPA
Director, Audit Division
(803) 271-2785

November 30, 2018

Victoria F. Sheehan, Commissioner
Department of Transportation
John O. Morton Building
7 Hazen Drive
Concord, New Hampshire 03302-0483

RECEIVED
COMMISSIONERS OFFICE

DEC 03 2018

THE STATE OF NEW HAMPSHIRE
DEPT. OF TRANSPORTATION

Dear Commissioner Sheehan,

The Capital Budget Overview Committee, pursuant to the provisions of RSA 228:12-a, on November 29, 2018 approved the request of the Department of Transportation, Bureau of Rail and Transit, to use \$3,809,726 of Turnpike Toll Credit, based on the total amended project costs not to exceed \$9,032,077 in federal funds to meet funding match requirements for; Boston Express Bus service along the F.E. Everett Turnpike and I-93 corridors between Manchester and Boston through December 31, 2023, subject to the conditions as specified in the request dated October 22, 2018.

Sincerely,

Michael W. Kane
Legislative Budget Assistant

MWK/pe
Attachment

Cc: Patrick Herlihy, Division of Aeronautics, Rail and Transit, Dept. of Transportation ✓

AMENDMENT TO AGREEMENT #4

BOSTON EXPRESS BUS, INC. (Nashua/FEE Turnpike)

WHEREAS, the Governor and Council approved an operating agreement between the New Hampshire Department of Transportation (NHDOT) and Boston Express Bus, Inc. for daily commuter bus service between Nashua and Boston on January 10, 2007, Item 123A, amended November 17, 2010, Item 215; amended November 6, 2013, Item 119; and amended June 18, 2014, Item 185.

WHEREAS, the Department of Transportation has available Federal funds to continue support of operations, facility repair and improvement, and marketing for Boston Express Bus commuter service that runs along the FE Everett Turnpike between Manchester-Nashua-Tyngsborough-Boston;

WHEREAS, the Department of Transportation and Boston Express Bus, Inc. have agreed to revise certain provisions in the contract agreement;

WHEREAS, the Department and Boston Express Bus, Inc. wish to invoke the five year renewal option identified in Section 2. Definitions of the Agreement and amend the completion date from December 31, 2018 to December 31, 2023;

WHEREAS, Section 25. TERMINATION, 25.4, Termination for Convenience, reads "Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice of default has been given to the Contractor hereunder, may terminate this Agreement without cause upon thirty (30) days written notice. The Contractor agrees to deliver the project equipment the New Hampshire Department of Transportation upon termination of the project."

WHEREAS, Exhibit A, Scope of Services, A.4 as amended, reads "The Contractor shall utilize seven (7) MCI commuter coaches to be purchased by the State and identified by Vehicle Identification Numbers to be appended to this agreement."

WHEREAS, the Department wishes to increase the amended Contract price of \$2,466,727 by \$69,180 amending the revised total contract amount to \$2,535,907.

RESOLVED, that the agreement be amended to include new and revised language for the following Sections and Exhibits:

Amend the contract to revise amended Section 2 Definitions, Completion Date to read: "Completion date of the Contract shall be December 31, 2023. Upon the Completion Date, the Contractor shall return all project equipment to the State and vacate any State-owned property utilized for the services and any project equipment shall be returned to the State."

Amend the contract to revise Section 22.4, Termination for Convenience to read: "Termination Procedures/Requirements.

The contract shall continue to remain in force and effect for the entire period specified above unless terminated, in whole or in part, sooner in one of the following ways:

- a) By the State for cause if the Contractor is in material breach of a term or terms of the contract which is/are not corrected within thirty (30) days of written notice to cure given by the State to the Contractor;
- b) By the Contractor for cause if the State is in material breach of a term or terms of the contract which is/are not corrected within thirty (30) days of written notice to cure given by the Contractor to the Department;
- c) Notwithstanding any language in the Contract to the contrary the State or Contractor may terminate the Contract without cause upon ninety (90) days written notice; or,
- d) Upon a mutual determination and agreement that continued performance under the contract is not desirable.

In the event of termination under (b) above, the Contractor may pursue all of its remedies at law or in equity. Damages consisting of anticipated profits and amounts for the purchase of equipment will not be paid under any circumstances.

In the event of termination under (a) above, the State may engage the services of others to continue work for the balance of the contract period without benefit of competitive bidding, and the Contractor shall compensate the State for the actual costs to reissue a subsequent Request for Proposal (RFP) to secure another Contractor to operate the facility.

In the event of termination under (c) above, if the Contractor terminates the contract within the first twelve months of the contract term, even with having provided ninety (90) days written notice, the Contractor agrees to compensate the State for the actual costs to reissue a subsequent RFP to secure another Contractor to operate the facility.

In the event of termination under (d) above, the termination shall take effect sixty (60) days after the parties reach a mutual determination to terminate. Upon the termination taking effect, both parties shall, effective the date of the termination, be exonerated of any and all further liabilities and/or obligations under the contract.

The Contractor may, upon termination of the contract, remove all moveable furniture, trade fixtures and equipment belonging to the Contractor, repairing any damage caused by such removal. Property not so removed shall be deemed abandoned by the Contractor, and the State may, at its option, keep the same for its use or remove the same in any manner as the State shall choose, and the Contractor shall pay on demand any and all expenses incurred in such removal.”

Amend Exhibit A, Scope of Services, A.4 be amended to read: “The Contractor shall utilize State-owned ADA-compliant commuter coaches to be purchased by the State. In the event one or more coaches become unavailable due to accident or other loss, the State and Contractor agree to use available funding to provide replacement equipment.”

Amended Exhibit B, Budget, B.1 be amended to include an additional \$69,180 of Federal funds for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment and repairs for a revised contract price of \$2,535,907;

	Existing Contract	Proposed Amendment #4	Amended Contract
Net Operating Expenses (Total Operating Expenses – Revenues)	\$1,647,605	\$20,280	\$1,667,885
Preventative Maintenance	\$424,122	\$0	\$424,122
Marketing Expenses	\$535,000	\$0	\$535,000
Maintenance & Terminal Capital Equipment	\$40,000	\$48,900	\$88,900
Less Contractor Share	<u>\$(180,000)</u>	<u>\$0</u>	<u>\$(180,000)</u>
Contract Amount	\$2,466,727	\$69,180	\$2,535,907

All other provisions of the agreement shall remain in effect.

AMENDED SECTIONS AND EXHIBITS

2. DEFINITIONS

Completion Date: Completion date of the contract shall be December 31, 2023. Upon the Completion Date, the Contractor shall return all project equipment to the State and vacate any State-owned property utilized for the services and any project equipment shall be returned to the State.

22.4 Termination Procedures/Requirements

The contract shall continue to remain in force and effect for the entire period specified above unless terminated, in whole or in part, sooner in one of the following ways:

- e) By the State for cause if the Contractor is in material breach of a term or terms of the contract which is/are not corrected within thirty (30) days of written notice to cure given by the State to the Contractor;
- f) By the Contractor for cause if the State is in material breach of a term or terms of the contract which is/are not corrected within thirty (30) days of written notice to cure given by the Contractor to the Department;
- g) Notwithstanding any language in the Contract to the contrary the State or Contractor may terminate the Contract without cause upon ninety (90) days written notice; or,
- h) Upon a mutual determination and agreement that continued performance under the contract is not desirable.

In the event of termination under (b) above, the Contractor may pursue all of its remedies at law or in equity. Damages consisting of anticipated profits and amounts for the purchase of equipment will not be paid under any circumstances.

In the event of termination under (a) above, the State may engage the services of others to continue work for the balance of the contract period without benefit of competitive bidding, and the Contractor shall compensate the State for the actual costs to reissue a subsequent Request for Proposal (RFP) to secure another Contractor to operate the facility.

In the event of termination under (c) above, if the Contractor terminates the contract within the first twelve months of the contract term, even with having provided ninety (90) days written notice, the Contractor agrees to compensate the State for the actual costs to reissue a subsequent RFP to secure another Contractor to operate the facility.

In the event of termination under (d) above, the termination shall take effect sixty (60) days after the parties reach a mutual determination to terminate. Upon the termination taking effect, both parties shall, effective the date of the termination, be exonerated of any and all further liabilities and/or obligations under the contract.

The Contractor may, upon termination of the contract, remove all moveable furniture, trade fixtures and equipment belonging to the Contractor, repairing any damage caused by such removal. Property not so removed shall be deemed abandoned by the Contractor, and the State may, at its option, keep the same for its use or remove the same in any manner as the State shall choose, and the Contractor shall pay on demand any and all expenses incurred in such removal.

EXHIBIT A
SCOPE OF SERVICES
Revised

The Contractor shall provide the following amended services:

- A.1. Boston Express Bus, Inc. will provide daily commuter bus service along the FE Everett Turnpike to Boston, Massachusetts, consisting of at least nine round trips per weekday between the hours of 6:00 am and 9:00 pm..
- A.2. The Contractor submit a schedule prior to the Commencement Date for the approval of the State, and shall not change, add, or delete any route or make any fare, service or operating schedule adjustments without the prior written approval of the State, except in an emergency situation. In such an emergency, the Contractor shall notify the State no later than the next working day following the day of such changes. Such change shall be valid for five days; thereafter, the written approval of the State shall be required.
- A.3. The Contractor shall manage and operate the bus terminal at North Southwood Drive in Nashua, near Exit 8 of the FE Everett Turnpike, pursuant to the provisions of Section 7 of this Agreement.
- A.4. The Contractor shall utilize State-owned commuter coaches to be purchased by the State. In the event one or more coaches become unavailable due to accident or other loss, the State and Contractor agree to use available funding to provide replacement equipment
- A.5. The Contractor shall develop and implement with the State's approval a marketing and customer service program to inform commuters and the general public about the service.

A.6. The Contractor will make approved transit facility repairs and improvements at the State-owned bus terminals along the FE Everett Turnpike in accordance with FTA Circular 4220.1F or as amended.

EXHIBIT B: BUDGET

Revised

B.1. The Contract Price is the reimbursable portion of the eligible project costs. The amended Project and Contract Price are:

	Existing Contract	Proposed Amendment #4	Amended Contract
Net Operating Expenses (Total Operating Expenses – Revenues)	\$1,647,605	\$20,280	\$1,667,885
Preventative Maintenance	\$424,122	\$0	\$424,122
Marketing Expenses	\$535,000	\$0	\$535,000
Maintenance & Terminal Capital Equipment	\$40,000	\$48,900	\$88,900
Less Contractor Share	\$(180,000)	\$0	\$(180,000)
Contract Amount	\$2,466,727	\$69,180	\$2,535,907

B.2 At least fourteen days prior to the submission of the Contractor's first request for reimbursement, the Contractor shall submit to the State a detailed budget including any revisions to its budget, incorporating all funds to be expended in the provision of services pursuant to this contract. Budget revisions may be made with written approval of the State, and are limited to the six-month interval and year-end of the contract.

B.3 The Contractor may seek reimbursement for eligible expenses listed in the Project Budget and its approved detailed budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement for the net operating expenses (total operating expenses less revenues), marketing expenses, maintenance and terminal capital equipment. The Contractor will invoice the State for reimbursement of eligible project expenses after the completion of approved work and items. Total reimbursements may not exceed the amended contract price of **\$2,535,907**. The Contractor will continue to operate commuter bus service under the terms of the agreement until the Completion Date, using the State-owned equipment, unless the Contract is terminated earlier pursuant to Section 22.

Boston Express Bus, Inc.

BENJAMIN W. BLUNT

Name

Date: 11 / 6 / 2018

VICE PRESIDENT

Title



Signature

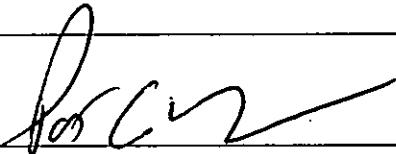
NH Department of Transportation

Patrick C. Herlihy

Name **Director**
Aeronautics, Rail and Transit

Date: 11/26/18

Title



Signature

Approved by Attorney General

Allison Greenstein

Name

Date: 11/27/18

Asst. Attorney General

Title

Allison B Greenstein

Signature

Approved by Governor and Council

Date: _____

Federal Clauses

Fly America Requirements

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

Charter Bus Requirements

These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

School Bus Requirements

School Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000). Pursuant to 69 USC 5323(f) or (g) as amended by MAP-21, 23 USC 133, 23 USC 142, and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles, or facilities. Violations. If a Recipient or any Third Party Participant that has operated school bus service in violation of FTA's School Bus laws and regulations, FTA may: (1) Require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third Party Participant from receiving Federal transit funds.

Energy Conservation

All Contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Access to Records and Reports

Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC

5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.

3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

Federal Changes

All Contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000) Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

Recycled Products

All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

No Government Obligation to Third Parties

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Termination

Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

Government Wide Debarment and Suspension (Non Procurement)

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations,

"Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <http://https.www.sam.gov,.proxy1.semalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <http://https.www.sam.gov,.proxy1.semalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel,

Contracts Involving Federal Privacy Act Requirements

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

Civil Rights Requirements

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity, and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI

Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and

2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer".

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The

Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,

(2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R.

part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

Transit Employee Protective Provisions

Contracts for transit operations except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

Public Transportation Employee Protective Arrangements. The Recipient agrees that 49 U.S.C. § 5333(b) requires employee protective arrangements to be in place as a condition of award of FTA assistance made available or appropriated for FTA programs involving public transportation operations. U.S. DOL recognizes the following categories of arrangements:

(1) U.S. DOL Certification. When its Project involves public transportation operations and is financed with funding made available or appropriated for 49 U.S.C. §§ 5307, 5309, 5312, 5337, or 5339, as amended by Map-21, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a Certification of employee protective arrangements before FTA may provide financial assistance for the Project. Therefore, the Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that: (a) It must carry out the Project as provided in its U.S. DOL Certification, which contains the terms and conditions that U.S. DOL has determined to be fair and equitable to protect the interests of any employees affected by the Project, (b) It must comply with 49 U.S.C. § 5333(b), and any future amendments thereto, (c)

It will follow the U.S. DOL guidelines, "Guidelines, Section 5333(b), Federal Transit Law," 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing, (d) It must comply with the terms and conditions of the U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, including: 1 Alternative comparable arrangements U.S. DOL has specified for the Project, 2 Any revisions U.S. DOL has specified for the Project, or 3 Both, and

(e) It must comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement for the Project: 1 The U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, 2 The

documents cited in that U.S. DOL certification for the Project, 3 Any alternative comparable arrangements that U.S. DOL has specified for the Project, and 4 Any revisions that U.S. DOL has specified for the Project, (2) Special Warranty. When its Project involves public transportation operations, and is financed with funding made available or appropriated for 49 U.S.C. § 5311, as amended by Map-21, for former 49 U.S.C. § 5311 in effect in FY 2012, or a previous fiscal year, or for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, U.S. DOL will provide a Special Warranty for those projects, including projects under the Tribal Transit Program. Therefore, the Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that: (a) It must comply with Federal transit laws, specifically 49 U.S.C. § 5333(b),

(b) Follow the U.S. DOL guidelines, "Guidelines, Section 5333(b), Federal Transit Law," 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing, (c) It will comply with the U.S. DOL Special Warranty for its Project that is most current on the date when it executed the Underlying Agreement, and documents cited therein, including: 1 Any alternative comparable arrangements U.S. DOL has specified for the Project, 2 Any revisions U.S. DOL has specified for the Project, or 3 Both, and (d) It will comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement: 1 The U.S. DOL Special Warranty for its Project, 2 Documents cited in that Special Warranty, 3 Alternative comparable arrangements U.S. DOL specifies for the Project, and 4 Any revisions that U.S. DOL has specified for the Project, and (3) Special Arrangements for 49 U.S.C. § 5310 Projects. The Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not "necessary or appropriate" to apply the conditions of 49 U.S.C. § 5333(b) to Subrecipients participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make the following exceptions: (a) FTA will make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and (b) FTA reserves the right to make other exceptions as it deems appropriate.

Disadvantaged Business Enterprise

Contracts over \$3,500 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage

payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

Prompt payment

Applicability – All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

Incorporation of Federal Transit Administration (FTA) Terms

All contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

Drug and Alcohol Abuse and Testing

Operational service contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by Map-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

Other Federal Requirements

The following requirements are not federal clauses.

Full and Open Competition

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

Prohibition Against Exclusionary or Discriminatory Specifications

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with

the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Conformance with ITS National Architecture

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

Access Requirements for Persons with Disabilities

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

Notification of Federal Participation

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

Interest of Members or Delegates to Congress

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Ineligible Contractors and Subcontractors

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

Other Contract Requirements

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

Compliance with Federal Regulations

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Real Property

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by FAST Act, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Access to Services for Persons with Limited English Proficiency

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

Environmental Justice

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1)

Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

Environmental Protections

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

Geographic Information and Related Spatial Data

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Geographic Preference

All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).

Organizational Conflicts of Interest

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) Other. An

organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only

Non Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO). Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

Veterans Preference

Veterans Preference. As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

Safe Operation of Motor Vehicles

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or AGENCY.

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

Catalog of Federal Domestic Assistance (CFDA) Identification Number

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

CFDA number for the Federal Transportation Administration

Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

Federal Certifications

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

- (1) Debarred,
- (2) Suspended,
- (3) Proposed for debarment,
- (4) Declared ineligible,
- (5) Voluntarily excluded, or
- (6) Disqualified,

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
- (2) Violation of any Federal or State antitrust statute, or
- (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a - 2.d above, it will promptly provide that information to FTA,

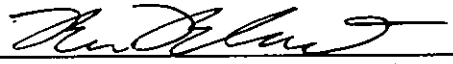
GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
- (1) Equals or exceeds \$25,000,
 - (2) Is for audit services, or
 - (3) Requires the consent of a Federal official, and
- g. It will require that each covered lower tier contractor and subcontractor:
- (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 - (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - a. Debarred from participation in its federally funded Project,
 - b. Suspended from participation in its federally funded Project,
 - c. Proposed for debarment from participation in its federally funded Project,
 - d. Declared ineligible to participate in its federally funded Project,
 - e. Voluntarily excluded from participation in its federally funded Project, or
 - f. Disqualified from participation in its federally funded Project, and

3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor BOSTON EXPRESS BUS, INC

Signature of Authorized Official  Date 11/6/18

Name and Title of Contractor's Authorized Official BENJAMIN W. BLUNT
VICE PRESIDENT

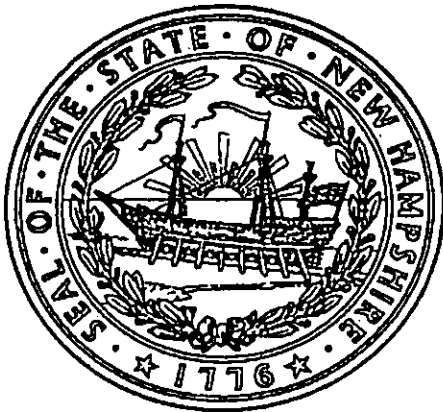
State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that BOSTON EXPRESS BUS, INC. is a New Hampshire Profit Corporation registered to transact business in New Hampshire on October 10, 2006. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 565563

Certificate Number: 0004195775



IN TESTIMONY WHEREOF,
I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire.
this 10th day of October A.D. 2018.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

[\(/online/Home/\)](#)  [Back to Home \(/online\)](#)

Business Information

Business Details

Business Name: BOSTON EXPRESS BUS, INC.	Business ID: 565563
Business Type: Domestic Profit Corporation	Business Status: Good Standing
Business Creation Date: 10/10/2006	Name in State of Incorporation: Not Available
Date of Formation in Jurisdiction: 10/10/2006	
Principal Office Address: 7 Langdon St, Concord, NH, 03301, USA	Mailing Address: NONE
Citizenship / State of Incorporation: Domestic/New Hampshire	
	Last Annual Report Year: 2018
	Next Report Year: 2019
Duration: Perpetual	
Business Email: accounting@concordcoachlines.com	Phone #: 603-228-3300
Notification Email: NONE	Fiscal Year End Date: NONE

Principal Purpose

S.No	NAICS Code	NAICS Subcode
1	OTHER / Transportation/livery	

Page 1 of 1, records 1 to 1 of 1

Principals Information

Name/Title	Business Address
Harry W Blunt / President	7 Langdon Street, Concord, NH, 03301, USA
Harry W Blunt / Director	7 Langdon Street, Concord, NH, 03301, USA
Benjamin Blunt / Vice President	7 Langdon St, Concord, NH, 03301, USA

Page 1 of 1, records 1 to 3 of 3

Registered Agent Information

Name: Blunt, Harry W

Registered Office 7 Langdon St, Concord, NH, 03301, USA
Address:

Registered Mailing 7 Langdon St, Concord, NH, 03301, USA
Address:

Trade Name Information

No Trade Name(s) associated to this business.

Trade Name Owned By

No Records to View.

Trademark Information

Trademark Number	Trademark Name	Business Address	Mailing Address
No records to view.			

[Filing History](#)
 [Address History](#)
 [View All Other Addresses](#)
 [Name History](#)
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BOSTON EXPRESS BUS, INC.

CERTIFICATE OF VOTE

I, Harry W. Blunt, hereby certify that I am President of Boston Express Bus, Inc.

I hereby certify the following is a true copy of a vote taken at a special meeting of the Board of Directors of the corporation held on November 6, 2018 at an office of the corporation in Concord, New Hampshire, at which a quorum of the Board was present and voting.

VOTED: That Benjamin W. Blunt, as Vice President of said corporation, is hereby authorized and empowered to execute all documents between the State of New Hampshire, and its subdivisions, and Boston Express Bus, Inc. relating to the Contract Amendment with the State of New Hampshire, acting through its Department of Transportation, dated November 6, 2018, to add additional funds to the Nashua (FE Everett Turnpike) Contract Agreement, and further authorizing said officer to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of November 6, 2018.

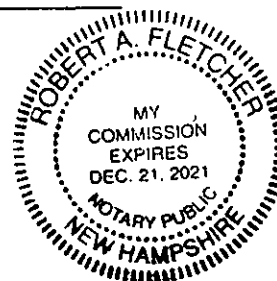


Harry W. Blunt
President
Boston Express Bus, Inc.

Subscribed and sworn before me this 6th
day of November 2018.



Robert A. Fletcher Notary Public
My Commission Expires December 21, 2021





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/30/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER THE ROWLEY AGENCY INC. 45 Constitution Ave P.O. Box 511 Concord NH 03302-0511		CONTACT NAME: Jennifer Letendre, CIC PHONE (AG, No, Ext): (603) 224-2562 FAX (AG, No): (603) 224-8012 E-MAIL ADDRESS: jletendre@rowleyagency.com	
INSURED Boston Express Bus, Inc 7 Langdon Street Concord NH 03301		INSURER(S) AFFORDING COVERAGE	
		INSURER A: National Interstate Ins Co	NAIC # 32620
		INSURER B: Acadia Insurance Company	31325
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 18/19 Bost Exp **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

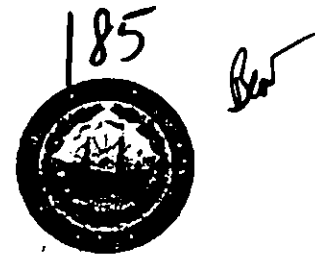
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Primary GL layer GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		X	YPP1107620-12	05/01/2018	05/01/2019	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COM/POP AGG \$ 5,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		X	YPP1107620-12	05/01/2018	05/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 100,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			Excess of primary auto YEX1107620-12, 621-12 622-12, 623-12 and 624-12	05/01/2018	05/01/2019	EACH OCCURRENCE \$ 24,900,000 AGGREGATE \$ 24,900,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	Sect 3A States: NH, MA, ME WCA5326280	12/31/2017	12/31/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The State of New Hampshire, Department of Transportation is additional insured w/ respects to general & auto liability when required by written contract.

CERTIFICATE HOLDER State of New Hampshire DOT 7 Hazen Dr. Concord, NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Robert Simpson/JLP
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THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
May 27, 2014

Sole Source

REQUESTED ACTION

Authorize the Department of Transportation to enter into a **sole source** contract amendment with Boston Express Bus, Inc., (Vendor # 166250), Concord, NH, to increase the contract amount by \$912,605 from \$1,554,122 to \$2,466,727, effective upon Governor and Council approval through December 31, 2018. This amendment only contains funding through the next fiscal biennium, or June 30, 2017. The original agreement was approved by Governor and Council on January 10, 2007 (Item 123A) and amended November 17, 2010 (Item 215) and November 6, 2013 (Item 119). 100% Federal funds.

Funding for this amendment is available as follows for FY 2015, and is contingent upon the availability and continued appropriation of funds in FY 2016 and 2017, with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified.

	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
04-96-96-964010-2916			
Public Transportation			
030-500331 Equipment – General (Replace)	\$ 8,000	\$ 6,000	\$ 4,000
103-502664 Contracts for Operational Services	\$300,000	\$325,000	\$257,605
400-500869 Construction Buildings	\$ 6,000	\$ 4,000	\$ 2,000

EXPLANATION

This item is contingent upon approval of a funding transfer at the June 9, 2014 Fiscal Committee meeting and also at the June 18, 2014 Governor and Council meeting to transfer appropriation into class 103 of accounting unit 2916. The **sole source** contract amendment is based on the need to maintain the current level of service without interruption while adequately addressing escalating operational and maintenance expenses.

Boston Express Bus, Inc. provides daily commuter bus service along the FE Everett Turnpike between Manchester-Nashua-Tyngsborough-Boston, consisting of at least nine round trips per weekday between

the hours of 6:00 am and 9:00 pm. This contract amendment provides an additional \$912,605 of Federal Transit Administration (FTA) funds to assist with net operating expenses, marketing, and capital facility repairs and improvements through June 30, 2017. Federal funds will be matched with approved Toll Credits, effectively using 100% Federal funds. The use of Toll Credits for this project was approved by the Capital Budget Overview Committee on April 15, 2014 (approval letter attached).

The Department entered into a contract agreement with Boston Express Bus, Inc. in 2007 to initiate commuter bus service along the FE Everett Turnpike to Boston, using State and FTA funds to defray operating, preventative maintenance, capital, and marketing expenses. The additional funding will provide net operating expenses (total operating expenses less revenues), marketing expenses for the development and implementation of a marketing and customer service program, and capital for approved transit facility repairs and improvements at the State owned bus terminals along the FE Everett Turnpike. The total revised contract amount, including previous amendments, is \$2,466,727. The additional funding will allow Boston Express Bus to maintain existing service levels through June 30, 2017. This commuter bus service is well utilized and is a tremendous asset to the State and greatly appreciated by commuters and travelers. Ridership has grown from under 8,000 per month when first initiated to over 16,000 per month currently.

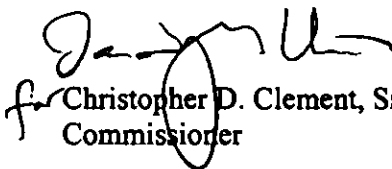
All other provisions of the agreement shall remain in effect.

In the event that Federal funds become unavailable, general funds will not be requested in support of this project.

The Amendment has been approved by the Attorney General as to form and execution and the Department will verify the necessary funds are available for FY 2016 and 2017 pending enactment of the Fiscal Year 2016 and 2017 budget. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,


for Christopher D. Clement, Sr.
Commissioner

Attachments

AMENDMENT TO AGREEMENT #3

BOSTON EXPRESS BUS, INC. (Nashua/FEE Turnpike)

WHEREAS, the Governor and Council approved an operating agreement between the New Hampshire Department of Transportation and Boston Express Bus, Inc. for daily commuter bus service between Nashua and Boston on January 10, 2007, Item 123A and amended on November 17, 2010, Item 215 and November 6, 2013, Item 119;

WHEREAS, the Department of Transportation has available Federal funds from the Federal Transit Administration (FTA) Section 5307 Urbanized Area Formula Program to continue support of operations, facility repair and improvement, and marketing for Boston Express Bus commuter service that runs along the FE Everett Turnpike between Manchester-Nashua-Tyngsborough-Boston;

WHEREAS, the Department of Transportation and Boston Express Bus, Inc. have agreed to revise certain provisions in the contract agreement;

WHEREAS, Section 3. Contract Budget; Contract Price Limitation, 3.2, as amended, reads, "The Contract Price Limitation represents the maximum to be paid by the State to the Contractor through this contract under the following terms: Operating expenses may be paid for a period of three years after the Commencement Date up to 80% of net expenses, and eligible preventive maintenance may be paid beginning June 1, 2010 through December 31, 2018. Preventive maintenance expenses may be reimbursed on a monthly basis only up to the amount of the monthly total operating deficit of the service, defined as total expenses less revenues."

WHEREAS, Exhibit A, Scope of Services, as amended, contains items A.1 through A.4 only;

WHEREAS, Exhibit B, Budget, Section B.1, as amended, includes \$424,122 in funding for preventative maintenance expenses and a revised contract price of \$1,554,122;

WHEREAS, Exhibit B, Budget, Section B.3, as amended reads, "The Contractor may seek reimbursement for eligible expenses listed in the Project Budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement in an amount not to exceed 80% of the net operating cost (expenses less revenues) or eligible preventive maintenance expense, whichever is less. Eligible preventive maintenance expenses are defined in FTA Circular 9030.1D, Exhibit E. Reimbursements will be made by the State through December 31, 2018. Total reimbursements may not exceed the Contract Price of \$1,554,122. The Contractor shall operate commuter bus service under the terms of this agreement until the Completion Date, using the State-owned equipment, unless the Contract is terminated earlier pursuant to Section 22";

RESOLVED, that the agreement be amended to include new language for the following Sections and Exhibits:

Section 3. Contract Budget; Contract Price Limitation, 3.2 be amended to read "The Contract Price Limitation represents the maximum to be paid by the State to the Contractor through this contract under the following terms:

- For a period of three years after the Commencement Date (1) up to 80% of net expenses (total operating expenses less revenues) may be paid by the State with the Contractor providing the 20% non-federal match and (2) 100% of marketing and capital expenses will be paid by the State.

- From June 1, 2010 through December 31, 2018, 100% of eligible preventive maintenance expenses may be paid by the State. Preventative maintenance expenses may be reimbursed on a monthly basis only up to the amount of the monthly total operating deficit of the service, which is defined as total operating expenses less revenues.
- From Governor and Council approval through December 31, 2018, 100% of (1) net operating expenses (total operating expenses less revenues), (2) approved marketing expenses, and (3) maintenance and terminal capital equipment expenses may be reimbursed by the State.
- Notwithstanding the budget in Exhibit B.1, payment for operating expenses shall not exceed the operating deficit (total operating expenses less revenues)."

Exhibit A, Scope of Services, be amended to include:

A.5. The Contractor shall develop and implement, with the State's approval, a marketing and customer service program to inform commuters and the general public about the service.

A.6. The Contractor will make approved transit facility repairs and improvements at the State-owned bus terminals along the FE Everett Turnpike in accordance with FTA Circular 4220.1F or as amended.

Exhibit B, Budget, Section B.1, be amended to include an additional \$912,605 of Federal funds for operating, marketing, and maintenance and terminal capital equipment and repairs for a revised contract price of \$2,466,727;

	Existing Contract	Proposed Amendment #3	Amended Contract
Net Operating Expenses (Total Operating Expenses less Revenues)	\$ 900,000	\$747,605	\$1,647,605
Preventative Maintenance	\$ 424,122		\$ 424,122
Marketing Expenses	\$ 400,000	\$135,000	\$ 535,000
Maintenance and Terminal Capital Equipment	\$ 10,000	\$ 30,000	\$ 40,000
Less Contractor Share	\$ (180,000)		\$ (180,000)
Contract Price	\$1,554,122	\$912,605	\$2,466,727

Exhibit B, Budget, Section B.3, be amended to read, "The Contractor may seek reimbursement for eligible expenses listed in the Project Budget and its approved detailed budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement for the net operating expenses (total operating expenses less revenues), preventative maintenance expenses, marketing expenses, and maintenance and terminal capital equipment and repairs. The Contractor will invoice the State for reimbursement of eligible project expenses after the completion of approved work and items. Total reimbursements may not exceed the amended contract price of \$2,466,727. The Contractor shall operate commuter bus service under the terms of this agreement until the Contract Completion Date, using the State-owned equipment, unless the Contract is terminated earlier pursuant to Section 22."

All other provisions of the agreement shall remain in effect.

All amended Sections and Exhibits appear below.

AMENDED SECTIONS AND EXHIBITS

3. CONTRACT BUDGET; CONTRACT PRICE LIMITATION

Section 3. Contract Budget; Contract Price Limitation, 3.2 be amended to read "The Contract Price Limitation represents the maximum to be paid by the State to the Contractor through this contract under the following terms:

- For a period of three years after the Commencement Date (1) up to 80% of net expenses (total operating expenses less revenues) may be paid by the State with the Contractor providing the 20% non-federal match and (2) 100% of marketing and capital expenses will be paid by the State.
- From June 1, 2010 through December 31, 2018, 100% of eligible preventive maintenance expenses may be paid by the State. Preventative maintenance expenses may be reimbursed on a monthly basis only up to the amount of the monthly total operating deficit of the service, which is defined as total operating expenses less revenues.
- From Governor and Council approval through December 31, 2018, 100% of (1) net operating expenses (total operating expenses less revenues), (2) approved marketing expenses, and (3) maintenance and terminal capital equipment expenses may be reimbursed by the State.
- Notwithstanding the budget in Exhibit B.1, payment for operating expenses shall not exceed the operating deficit (total operating expenses less revenues).

EXHIBIT A: SCOPE OF SERVICES (Revised)

A.1 Boston Express Bus, Inc. will provide daily commuter bus service along the FE Everett Turnpike to Boston, Massachusetts, consisting of at least nine round trips per weekday between the hours of 6:00 am and 9:00 pm.

A.2 The Contractor shall submit a schedule prior to the Commencement Date for the approval of the State, and shall not change, add, or delete any route or make any fare, service or operating schedule adjustments without the prior written agreement of the State, except in an emergency situation. In such an emergency, the Contractor shall notify the State no later than the next working day following the day of such changes. Such change shall be valid for five days; thereafter, the written approval of the State shall be required.

A.3 The Contractor shall manage and operate the bus terminal at North Southwood Drive in Nashua, near Exit 8 of the FE Everett Turnpike, pursuant to the provisions of Section 7 of this agreement.

A.4 The Contractor shall utilize seven (7) MCI commuter coaches to be purchased by the State and identified by Vehicle Identification Numbers to be appended to this agreement. In the event one or more coaches become unavailable due to accident or other loss, the State and Contractor agree to use available funding to provide replacement equipment.

A.5. The Contractor shall develop and implement, with the State's approval, a marketing and customer service program to inform commuters and the general public about the service.

A.6. The Contractor will make approved transit facility repairs and improvements at the State-owned bus terminals along the FE Everett Turnpike in accordance with FTA Circular 4220.1F or as amended.

EXHIBIT B: BUDGET (Revised)

B.1. The Contract Price is the reimbursable portion of the eligible project costs. The amended Project Budget and Contract Price are:

	Existing Contract	Proposed Amendment #3	Amended Contract
Net Operating expenses	\$ 900,000	\$747,605	\$1,647,605
Preventative Maintenance	\$ 424,122		\$ 424,122
Marketing expenses	\$ 400,000	\$135,000	\$ 535,000
Maintenance and Terminal Capital Equipment	\$ 10,000	\$ 30,000	\$ 40,000
Less Contractor Share	<u>\$(180,000)</u>		<u>\$(180,000)</u>
Contract Price	\$1,554,122	\$912,605	\$2,466,727

B.2 At least fourteen days prior to the submission of the contractor's first request for reimbursement, the contractor shall submit to the State a detailed budget including any revisions to its budget, incorporating all funds to be expended in the provision of services pursuant to this contract. Budget revisions may be made with written approval of the State, and are limited to the six-month interval and year-end of the contract.

B.3 The Contractor may seek reimbursement for eligible expenses listed in the Project Budget and its approved detailed budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement for the net operating expenses (total operating expenses less revenues), preventative maintenance expenses, marketing expenses, and maintenance and terminal capital equipment. The Contractor will invoice the State for reimbursement of eligible project expenses after the completion of approved work and items. Total reimbursements may not exceed the amended contract price of \$2,466,727. The Contractor shall operate commuter bus service under the terms of this agreement until the Contract Completion Date, using the State-owned equipment, unless the Contract is terminated earlier pursuant to Section 22.

Boston Express Bus, Inc.

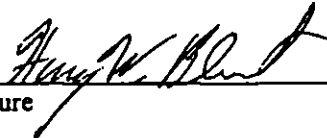
HARRY W. BLUNT

Name

Date: 4-18-14

PRESIDENT

Title



Signature

NH Department of Transportation

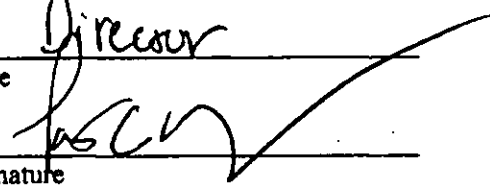
PATRICK C. HERLIHY

Name

Date: 4-23-14

Director

Title



Signature

Approved by Attorney General

Brian W. Buonamano

Name

Date: 5/19/14

Assistant Attorney General

Title



Signature

Approved by Governor and Council

Date: _____

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Boston Express Bus, Inc. is a New Hampshire corporation duly incorporated under the laws of the State of New Hampshire on October 10, 2006. I further certify that all fees and annual reports required by the Secretary of State's office have been received and that articles of dissolution have not been filed.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 17th day of April, A.D. 2014

William M. Gardner

William M. Gardner
Secretary of State



Corporation Division

- Search
- By Business Name
- By Business ID
- By Registered Agent
- Annual Report
- File Online
- Guidelines
- Name Availability
- Name Appeal Process

Date: 4/16/2014 **Filed Documents**
 (Annual Report History, View Images, etc.)

Business Name History

Name	Name Type
Boston Express Bus, Inc.	Legal

Corporation - Domestic - Information

Business ID: 565563
Status: Good Standing
Entity Creation Date: 10/10/2006
Principal Office Address: 7 Langdon St
 Concord NH 03301
Principal Mailing Address: No Address
Last Annual Report Filed Date: 3/24/2014
Last Annual Report Filed: 2014

Registered Agent

Agent Name: Blunt, Harry W.
Office Address: 7 Langdon St
 Concord NH 03301
Mailing Address:

Important Note: The status reflected for each entity on this website only refers to the status of the entity's filing requirements with this office. It does not necessarily reflect the disciplinary status of the entity with any state agency. Requests for disciplinary information should be directed to agencies with licensing or other regulatory authority over the entity.

CERTIFICATE OF AUTHORITY/VOTE

I, Michael D. Ruedig, do hereby certify that:

1. I am the duly elected Assistant Secretary of Boston Express Bus, Inc. (the "Corporation").
2. The following are true copies of two resolutions duly adopted by consent of the Sole Shareholder of the Corporation as of April 18, 2014.

RESOLVED: That this Corporation enter into a Contract Amendment with the State of New Hampshire, acting through its Department of Transportation, dated April 18, 2014, to add additional funds to the Nashua (FE Everett Turnpike) Contract Agreement.

RESOLVED: That the President, Harry W. Blunt, is authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he may deem necessary, desirable or appropriate.

3. The foregoing resolutions have not been amended or revoked, and remain in full force and effect as of April 18, 2014.
4. Harry W. Blunt is the duly elected President of the Corporation.



Michael D. Ruedig
Assistant Secretary

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 18th day of April, 2014, by Michael D. Ruedig.



Notary Public/Justice of the Peace

Commission Expires:

Rhonda E. Davignon
Notary Public, State of New Hampshire
My Commission Expires Feb 2, 2016


Boston Express Bus, Inc.
Consent of Sole Shareholder

I, Harry Blunt, hereby certify that I am the Sole Shareholder and President of Boston Express Bus, Inc. I hereby consent to the adoption of the following resolutions effective April 18, 2014:

RESOLVED: That this Corporation enter into a Contract Amendment with the State of New Hampshire, acting through its Department of Transportation, dated April 18, 2014, to add additional funds to the Nashua (FE Everett Turnpike) Contract Agreement.

RESOLVED: That the President, Harry W. Blunt, is authorized on behalf of this Corporation to enter into the said contract with the State and to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, as he may deem necessary, desirable or appropriate.

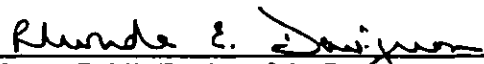
I hereby certify and acknowledge that the State of New Hampshire Department of Transportation will rely on these resolutions as evidence that I have full authority to bind Boston Express Bus, Inc. for that certain Contract Amendment with the State of New Hampshire Department of Transportation, dated April 18, 2014, to add additional funds to the Nashua (FE Everett Turnpike) Contract Agreement.



Harry W. Blunt
Sole Shareholder and President

STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this 18th day of April, 2014, by Harry W. Blunt.



Notary Public/Justice of the Peace

Commission Expires:

Rhonda E. Davignon
Notary Public, State of New Hampshire
My Commission Expires Feb 2, 2016



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/24/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER THE ROWLEY AGENCY INC. 139 Loudon Road P.O. Box 511 Concord NH 03302-0511		CONTACT NAME: Jennifer Porter PHONE (A/C No. Ext.): (603)224-2562 FAX (A/C No.): (603)224-8012 E-MAIL ADDRESS: jporter@rowleyagency.com	
INSURED Boston Express Bus, Inc. 7 Langdon Street Concord NH 03301		INSURER(S) AFFORDING COVERAGE INSURER A: National Interstate Ins. Co. INSURER B: Liberty Mutual Insurance Co. INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES CERTIFICATE NUMBER: 14/15 BE CERT REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR (W/O)	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Primary GL Layer		YPP1107620-08	05/01/2014	05/01/2015	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> Primary	<input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> Auto Layer	YPP1107620-08	05/01/2014	05/01/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 100,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$					
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	WC2-E11-260171-013 3A States: NH, MA, ME	12/31/2013	12/31/2014	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
	A Excess Auto and Excess GL YEK10007621-08 05/01/2014 05/01/2015 5,000,000 YEK10007622-08 05/01/2014 05/01/2015 5,000,000					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 The State of New Hampshire, Department of Transportation is additional insured w/ respects to general & auto liability when required by written contract. Plus Excess Auto/GL policy #YEX1107623-07 & #YEX1107624-07: \$5,000,000 each. Total Liability limits are \$25,000,000.

CERTIFICATE HOLDER State of New Hampshire DOT 7 Hazen Dr. Concord, NH 03301	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Robert Simpson/JLP



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



CAROL A. MURRAY, P.E.
Commissioner

JEFF BRILLHART, P.E.
Assistant Commissioner

Bureau of Rail & Transit
December 7, 2006

Item 123A
approved 1/10/07
original contract

His Excellency, John H. Lynch, Governor
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Transportation to enter into an operating agreement with Boston Express Bus, Inc. (VC # 51843), Concord, NH, for an amount not to exceed \$1,130,000, to provide daily commuter bus service between Nashua and Boston from Exit 8 and the Welcome Center at Exit 6 of the F.E. Everett Turnpike in Nashua, effective from the date of Governor and Council approval through December 31, 2011, with the option to renew for an additional five-year period subject to Governor and Council approval. 93% Federal, 7% Highway funds.

Funding is available in the following accounts:

ACCOUNT	APPROPRIATION ACCOUNT NO.	CONTRACT AMOUNT
Public Transportation	010-096-2916-095	\$1,048,000.00
Consolidated Federal Aid	015-096-3054-090	\$82,000.00

EXPLANATION

The Department of Transportation submitted a successful proposal for Congestion Mitigation & Air Quality (CMAQ) funds in 2006 to initiate commuter bus service from Exits 8 and 6 in Nashua to Boston. Using CMAQ funds, the State will provide funding to Boston Express Bus, Inc. to operate daily commuter bus service between Nashua and Boston.

This project will also provide funding for marketing of the new service, and to manage and operate ticketing facilities at the Welcome Center at Exit 6 of the F.E. Everett Turnpike.

Boston Express Bus, Inc. is an affiliate of Concord Coach Lines, Inc. (Concord Trailways), which submitted the original proposal for this new service and the only response to a Request for Proposals issued by the Department.

The total cost of the proposed contract is \$1,130,000, of which \$1,048,000 is the Federal share and \$82,000 is the State share. Boston Express Bus, Inc. will provide an additional \$180,000 in matching funds. The total project budget is provided below:

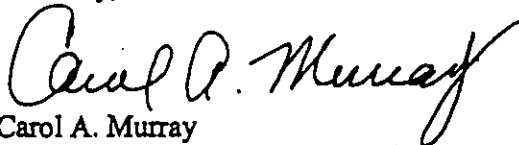
Total operating expenses	\$3,838,000
Less fare revenues	<u>\$2,938,000</u>
Net operating expenses	\$900,000
Marketing expenses	\$400,000
Capital: ticketing machines	<u>\$10,000</u>
Total Project Budget	\$1,310,000
Less Contractor share	<u>\$180,000</u>
Contract Price	\$1,130,000

Funds for this agreement are available in the FY 2007 operating budget of the Department. The Federal funds were approved in a Federal Transit Administration (FTA) grant on August 10, 2006.

This Agreement has been approved by the Attorney General as to form and execution, and the Department has certified that the necessary funds are available. Copies of the fully executed Agreement are on file at the Secretary of State's Office and the Department of Administrative Services, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is hereby respectfully requested.

Sincerely,



Carol A. Murray
Commissioner



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

Approved 11/17/10
Item 215
Amend # 1

GEORGE N. CAMPBELL, JR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER
Bureau of Rail & Transit
October 22, 2010

His Excellency, Governor John H. Lynch
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Transportation to enter into a retroactive contract amendment (Contract # 191358) with Boston Express Bus, Inc. (Vendor #166250), Concord, NH, for bus service between Nashua and Boston, MA by increasing the contract amount by \$424,122 from \$1,130,000 to \$1,554,122, effective November 1, 2010 through December 31, 2015. The original agreement was approved by Governor and Council on January 10, 2007 (item # 123A). 100% Federal funds.

Funding for this agreement is available as follows:

PO 100853

	<u>Public Transportation</u>	<u>FY 2011</u>
04-96-96-964010-2916-072-500575	Grants Federal	\$424,122

EXPLANATION

This contract amendment authorizes Boston Express to operate and maintain a bus terminal at FE Everett Turnpike Exit 8 on behalf of the state for a period of five years. The amendment also provides additional Federal funds for preventive maintenance, which is considered an eligible capital expense, for up to three years. This amendment is retroactive due to processing delays at the Department.

The Department entered into a contract with Boston Express Bus, Inc. in 2007 to initiate commuter bus service from the FE Everett Turnpike Exit 8 park and ride lot and Exit 6 Welcome Center in Nashua to Boston, using State and Federal Transit Administration (FTA) funds to defray operating and marketing expenses and make capital improvements. This service has been very successful, with ridership growing from under 8,000 to over 12,000 per month on 11 daily round trips.

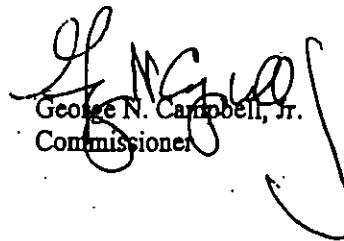
As directed in the 2010-11 Capital Budget, the State is now constructing a bus terminal at Exit 8 and converting the Exit 6 Welcome Center into a Division of Motor Vehicles substation and E-Z Pass customer service center. Boston Express will operate out of the new bus terminal at Exit 8 and a park and ride lot in Tyngsboro, MA starting with completion of the new terminal. Boston Express projects that the availability of more parking at the two lots will support growth in ridership and will enable the bus service to break even and operate without further subsidy within three years.

In the event that Federal funds become unavailable, general funds will not be requested to support this program.

The Agreement has been approved by the Attorney General as to form and execution, and the Department has verified that the necessary funds are available. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,



George N. Campbell, Jr.
Commissioner



**THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION**



By Order
Approved # 119
Nov 6, 2013

**CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER**

**JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER**

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

Bureau of Rail & Transit
October 07, 2013

REQUESTED ACTION

Authorize the Department of Transportation to enter into a contract amendment with Boston Express Bus, Inc., (Vendor # 166250), Concord, NH, to extend the overall contract completion date and preventative maintenance subsidy to December 31, 2018 from December 31, 2015, effective upon Governor and Council approval. The original agreement was approved by Governor and Council on January 10, 2007 (Item #123A) and amended November 17, 2010 (Item #215). This is a time extension only, requiring no additional funds.

EXPLANATION

Boston Express Bus, Inc. provides daily commuter bus service along the FE Everett Turnpike to Boston, Massachusetts, consisting of 16 trips per weekday and 12 trips per weekend between the hours of 6:00 am and 11:00 pm. This contract amendment authorizes Boston Express Bus, Inc. to continue to operate and maintain a bus terminal at FE Everett Turnpike Exit 8 on behalf of the State and continue to provide reimbursement for eligible preventive maintenance expenses (not to exceed the net operating deficit) through December 31, 2018. The amendment also revises the "Insurance" provision in the agreement to be consistent with other similar contracts based on guidance provided by the Department of Administrative Services' Risk Management Unit.

The Department entered into a contract with Boston Express Bus, Inc. in 2007 to initiate commuter bus service along the FE Everett Turnpike to Boston, using State and Federal Transit Administration (FTA) funds to defray operating and marketing expenses and make capital improvements. The total contract amount, including previous amendments, is \$1,544,122. This service has been very successful, with ridership growing from under 8,000 per month when first initiated to over 16,000 per month currently. Extending the contract completion date will allow Boston Express Bus, Inc. to fully utilize available preventative maintenance funds, approximately \$169,335, remaining in this contract and the amended contract completion date will also coincide with the contract completion date of the Boston Express Bus, Inc. I-93 contract.

All other provisions of the agreement shall remain in effect.

The amendment has been approved by the Attorney General as to form and execution. Copies of the fully executed amendment are on file at the Secretary of State's office and the Department of Administrative Services' office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,

Handwritten signature in black ink, appearing to read "C. D. Clement, Sr." with a stylized flourish at the end.

Christopher D. Clement, Sr.
Commissioner

Attachments



CAP 14-018

JEFFRY A. PATTISON
Legislative Budget Assistant
(603) 271-3161

State of New Hampshire

MICHAEL W. KANE, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

RICHARD J. MAHONEY, CPA
Director, Audit Division
(603) 271-3788

RECEIVED
COMMISSIONERS OFFICE

APR 18 2014

THE STATE OF NEW HAMPSHIRE
DEPT. OF TRANSPORTATION

April 16, 2014

Christopher D. Clement, Sr., Commissioner
Department of Transportation
John O. Morton Building
7 Hazen Drive
Concord, New Hampshire 03302-0483

Dear Commissioner Clement,

The Capital Budget Overview Committee, pursuant to the provisions of RSA 228:12-a, on April 15, 2014, approved the request of the Department of Transportation, Bureau of Rail and Transit, to use up to \$1,337,751 of Turnpike Toll Credit, based on total amended project costs not to exceed \$5,364,848 in Federal funds to meet funding match requirements for Boston Express Bus service to support commuter bus service along the FE Everett Turnpike and I-93 corridors between Manchester and Boston through June 30, 2017, subject to the conditions as specified in the request dated March 31, 2014.

Sincerely,

Jeffrey A. Pattison
Legislative Budget Assistant

JAP/pe
Attachment

Cc: Patrick McKenna, Deputy Commissioner ✓
Patrick Herlihy, Director of Aeronautics, Rail and Transit



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

CAP 14-018



CHRISTOPHER D. CLEMENT, SR.
COMMISSIONER

JEFF BRILLHART, P.E.
ASSISTANT COMMISSIONER

March 31, 2014
Bureau of Rail & Transit

The Honorable David Campbell, Chairman
Capital Budget Overview Committee
State House
Concord, NH 03301

Re: Request for Approval of the Department of Transportation, Toll Credit Match
Boston Express FEE Turnpike and I-93 Operating, Capital, and Marketing

Dear Chairman Campbell and Honorable Members of the Committee:

Requested Action

Pursuant to the provisions RSA Chapter 228:12-a, Use of Toll Credits, the New Hampshire Department of Transportation (NHDOT) requests the Capital Budget Overview Committee approve the Department's use of Toll Credits to meet funding match requirements for Boston Express Bus service. The Department will seek an increase in funding through contract amendments to support commuter bus service along the FE Everett Turnpike and I-93 corridors between Manchester and Boston through June 30, 2017. The total amended project costs shall not exceed \$5,364,848 in Federal funds and the usage of up to \$1,337,751 in Toll Credit match is requested.

Explanation

This project will provide funds for the continued operation of daily commuter bus service for the general public between Manchester-Nashua-Tyngsborough-Boston along the FE Everett Turnpike and between Manchester-Londonderry-Salem-Boston along the I-93 corridor. Boston Express Bus operates this service under contract to the State and requested funds will be used to support costs including operations, vehicle maintenance, facility maintenance, and marketing. The Department will utilize I-93 project funds and Federal Transit Administration (FTA) Section 5307 Urbanized Area funds to support these activities and the commuter bus service through June 30, 2017.

The Department entered into a contract with Boston Express Bus, Inc. in 2007 to initiate commuter bus service along the FE Everett Turnpike from Nashua to Boston, using State and Federal Transit Administration (FTA) funds to defray operating and marketing expenses. The Department also entered into a contract with Boston Express Bus, Inc. in 2008 to initiate commuter bus service along the I-93 corridor from Manchester, Londonderry, and Salem to Boston, using State and FTA CMAQ funds to defray operating and marketing expenses and make capital improvements. Both services have been very successful, with ridership and revenues growing each year. However, additional subsidy is needed to

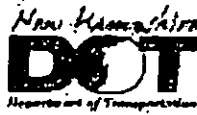
maintain the aging facilities and equipment and to operate a robust commuter bus service. The Department will pursue a contract amendment for the FE Everett Turnpike service to increase the contract amount by \$912,605 Federal, requiring a \$447,302 toll credit match and a separate contract amendment for the I-93 service to increase the contract amount by \$4,452,243 Federal, requiring a \$890,449 toll credit match.

Your approval of this resolution is respectfully requested.

Sincerely,

Handwritten signature of Christopher D. Clement, Sr. in black ink, appearing as 'C. D. Clement'.

Christopher D. Clement, Sr.
Commissioner



Boston Express Ridership & Revenue Summary - 2013

RIDERSHIP

I-93 Passenger Data

	Exit 2	Exit 4	Exit 5	Manchester	Logan*	TOTAL*
2013	110,823	75,285	160,542	19,433	43,638	366,083
2012	99,574	77,811	157,928	21,391	41,612	356,704
+/-	11.3%	-3.2%	1.7%	-9.2%	4.9%	2.6%

FEE (Nashua) Passenger Data

	Exit 8	Exit 35	Manchester	Logan*	TOTAL*
2013	116,839	53,747	22,399	33,178	192,985
2012	121,125	45,872	23,136	31,192	190,133
+/-	-3.5%	17.2%	-3.2%	6.4%	1.5%

*Logan numbers are not included in the Total sums as they are already accounted for in totals by location

Combined Ridership Data

	All Terms
2013	559,068
2012	546,837
+/-	2.2%

REVENUES

	Revenues	Farebox Recovery
I-93		
2012 \$	3,421,206	83.4%
2013 \$	3,515,993	84.0%

	Revenues	Farebox Recovery
FEE (Nashua)		
2012 \$	2,064,544	102.9%
2013 \$	2,079,464	95.2%

	Revenues	Farebox Recovery
BX Combined		
2012 \$	5,485,750	89.8%
2013 \$	5,595,457	87.9%